



616 H Street, NW · Suite 300
Washington, DC 20001
T 202.467.4900 · F 202.467.4949
www.childrenslawcenter.org

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Sharra E. Greer
Policy Director
Children's Law Center

Introduction

Good morning Chairman Grosso and members of the Committee. My name is Sharra E. Greer. I am the Policy Director of Children's Law Center¹ (CLC) and a resident of the District. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 8 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Nearly all the children we represent attend DC public schools – whether traditional public schools, charter schools, or nonpublic special education schools funded by DC.

I appreciate this opportunity to testify regarding the performance of the Office of the State Superintendent of Education (OSSE). OSSE has had a number of achievements this year. The agency worked with the District of Columbia Public Schools (DCPS) and the Public Charter School Board (PCSB) to produce the report, "Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools."² This report provides all DC schools with recommendations to aid in the elimination of out-of-school suspension and expulsion.

One way OSSE is working to improve attendance is by finding ways to address the traumatic experiences children in the District of Columbia bring with them into the classroom, an underlying problem behind student discipline and misbehavior. OSSE has worked with both the Department of Behavioral Health (DBH) and the Children and Family Services Agency (CFSA) to train over 350 educators on strategies to provide positive interventions to disruptive behavior and over 400 on trauma informed practices.³ Transforming schools to make all children feel safe has benefits for the entire

student and staff population. If schools are equipped to handle trauma, with staff trained in its effects and who are able to make strong linkages to mental health providers, teachers will be able to focus on teaching rather than continuously managing behavior issues.

Other notable achievements include the implementation of a data sharing agreement between OSSE and CFSA to share information regarding the education and outcomes of students in foster care who are enrolled in a public school in DC, continued timely and safe bus service through OSSE's Department of Transportation (DOT), and continued collaboration with DBH to implement a number of programs to identify and provide services to students with behavioral and developmental health needs.⁴⁵⁶

There is, however, still much progress to be made. As I testified last year, I remain concerned about the number of transitions and vacancies in the senior leadership at OSSE. I am encouraged by the recent appointment of Ms. Hanseul Kang to serve as the State Superintendent of Education and we look forward to working with her over the coming year. I am also pleased that Dr. Amy Maisterra will remain in her role as Assistant Superintendent of Elementary, Secondary, and Specialized education and we appreciate the progress Dr. Maisterra made during her time as interim State Superintendent of Education. I urge OSSE to continue to establish a stable and consistent leadership team in the coming year.

Special Education Legislation

Only approximately 1 in 4 students receiving special education services attending a public or public charter school in the District of Columbia tested proficient in math last school year, and only 1 in 5 tested proficient in reading.⁷ In school year 2013 – 2014, 297 students receiving special education services attending a public or public charter school dropped out of school prior to graduation.⁸ DC schools must

achieve better outcomes. The recently passed special education reform laws (the *Special Education Students Rights Act of 2014*, the *Enhanced Special Education Services Act of 2014*, and the *Special Education Quality Improvement Act of 2014*), a sweeping legislative reform package designed to address the challenges our schools are facing when providing special education services, will help achieve better outcomes for DC students. The reforms that these laws make to DC's special education system span the process from beginning to end - students will receive assistance earlier, parents will be able to participate more fully in their children's education, and students will graduate from high school with the skills they need to be successful adults.

OSSE is in the process of integrating the requirements from these laws into the DC Municipal Regulations.⁹ We hope OSSE continues this progress and the Council works with OSSE and the other education agencies to ensure these laws are effectively implemented.

Expansion of Early Intervention (Part C of the IDEA)

One of the key provisions of the new special education reform laws is the expansion of DC's Early Intervention Program (EIP). One of the best ways to reduce the need for special education services is to catch developmental delays as early as possible. Early intervention services help infants and toddlers with disabilities catch up to their peers before they start school. Brain science research in the past decade has shown definitively that children's experiences during their first years of life set the groundwork for their future success. Children who do not receive the specialized support they need as infants and toddlers have a much harder time making up lost ground later.¹⁰ However, when young children do receive the supports they need, the payoffs are enormous. Research on early intervention programs shows that they produce "long-lasting and substantial gains in outcomes such as special education

placement[,] grade retention, high school graduation rates, labor market outcomes, social welfare program use, and crime.”¹¹ RAND estimates that well-designed early childhood interventions generate a return to society ranging from \$1.80 to \$17.07 for every dollar spent.¹² There is no smarter place for us to invest resources than in infants and toddlers.

The recently passed *Enhanced Special Education Services Act* expands DC’s criteria for early intervention eligibility so that many more infants and toddlers will receive the help they need when it will be most effective.¹³ Even before the Council passed this crucial legislation, OSSE was working to significantly expand the pool of children served by DC’s EIP. The recent change in regulations that extended eligibility to children with a 25% delay in two or more areas of development, as opposed to the previous requirement that they had a developmental delay of over 50%, significantly increased the number of children eligible for early intervention.¹⁴ As of mid-January 2015, 836 children were receiving early intervention services.¹⁵ This is an increase of approximately 250 children receiving early intervention services compared to last year.¹⁶

The expansion nonetheless left out a large number of children who would benefit substantially from early intervention services. That is why the new special education legislation allows even more infants and toddlers to receive the help they need by expanding eligibility to infants and toddlers if they have a 25% delay in just one developmental area.¹⁷ We understand that OSSE may need to continue to scale up their staff and systems to accommodate the newly eligible children, but we urge OSSE to make concrete plans to do so and look forward to working with the agency to achieve these goals.

Special Education Capacity

Too often when special education is discussed, it is in the context of how much money could be saved by bringing children back from nonpublic schools to DC and their local schools. This focus on costs and savings ignores the cause of the problem. DC has so many children in nonpublic placements out of state because we do not have schools and programs that can serve them locally. We agree that, all things being equal, children should be educated close to home. But in this case all things are not equal: many of the local schools do not offer the specialized supports necessary to educate children with complex disabilities. If DC is to succeed in significantly increasing the number of students with disabilities that can attend their local schools, it must develop specialized and well-resourced special education programs at those schools.

This is a long-standing and complex problem that cuts across agencies. Addressing it requires OSSE, DCPS, PCSB, the individual public charter schools, and the Deputy Mayor for Education (DME) all to prioritize strategic planning and investment in special education. OSSE, as the State Education Agency (SEA), has a key leadership role to play. As the SEA, OSSE has the ultimate responsibility for DC's compliance with the Individuals with Disabilities Education Act (IDEA).¹⁸ That Act requires that each eligible student with a disability be provided a free appropriate public education (FAPE), consisting of the particular specialized instruction and related services that each student needs in order to make educational progress.¹⁹ DC's education system presents distinct challenges for OSSE's oversight. Although there are only approximately 88,000 schoolchildren in DC, they are spread among the DCPS, approximately 60 public charter school Local Education Agencies (LEAs), and dozens of nonpublic schools and residential treatment centers.²⁰ These different schools vary widely in the demographics of the students they serve and in the resources they have

available for students with special needs. Some of the smaller schools find it very difficult to provide a full continuum of special education services that students may need.

The *Special Education Quality Improvement Act* includes a number of provisions to ensure that DC will spend money in ways that will strengthen our public special education system. First, it requires all money saved on nonpublic tuition each year to be put into an Enhancement Fund.²¹ Second, it directs DC to use the Enhancement Fund to support specific programs that are targeted at quickly and effectively improving special education in the public schools. These programs include partnerships between public schools and nonpublic schools to share expertise and partnerships between public charter schools to pool resources. We look forward to assisting OSSE in implementing these provisions of the special education laws to improve access and outcomes for DC students.

Special Education Transportation

Since OSSE took on responsibility for DC's special education transportation from DCPS, we have seen major improvements. The long-running *Petties* class action lawsuit closed in December 2012 after the court monitor and judge agreed that DC had substantially improved its transportation operations and would no longer need outside oversight. We look forward to continuing to work with Ms. Gretchen Brumley, Director Division of Student Transportation, and her skilled team, to bring innovative and effective ideas to DC's special education transportation.

Last year, we applauded OSSE for a number of promising initiatives planned. This year, we are happy to report that OSSE continues to implement new initiatives and programs that improve the transportation experience for students and families. OSSE merged the complaint call line with the general customer service call line to eliminate

confusion and the need for callers to dial a different number or be transferred to another representative.²² OSSE enhanced the Inclement Weather Procedures and made information about school closures, delays, and early dismissals from schools more easily available to OSSE staff, parents, and schools.²³ OSSE purchased 50 new buses, increasing the amount of buses by 20% and continuing to reduce the average age of the buses.²⁴

Our clients' experiences confirm that the transportation system is substantially improved. In fall 2012, many of our clients were hours late for school and even missed entire days of school for weeks at a time because their buses were not correctly routed. This school year, we have had only a handful of such problems. On the few occasions where our clients have had concerns about their buses, the staff at OSSE DOT has generally provided quick and thorough responses. The data confirms that OSSE has improved its rate of on-time arrivals.²⁵

Our primary remaining concerns about student transportation are related to policy. We know that the Director is currently working to revise the policies to address some of the concerns that we have testified about in previous years, and that are discussed below. We look forward to seeing these changes in the coming year:

- Allow parents to designate different pick-up and drop-off addresses. Currently OSSE's transportation policy limits students to one address for pick-up and drop-off.²⁶ That address must be their address of District residency.²⁷ The policy indicates that OSSE will make exceptions and accommodations to the requirement that the address used for transportation be the address of District residency on a case-by-case basis for children in foster care or living in group homes.²⁸ However, there are children who need to be consistently picked up or dropped off at a different address, for example

children with divorced parents, those who need to be dropped off at after-school therapy appointments, and children who need to attend before or after care. We are hopeful that the revised policy will allow for different drop-off and pick-up addresses.

- Provide transportation home after extracurricular activities. OSSE's current policy is not to provide transportation from extracurricular activities unless the activity is identified as necessary by the students' IEP team. This prevents many students with disabilities from participating in extracurricular activities. Students placed at schools far from home because their local schools don't have the services they need and students who have disabilities that prevent them from using public transportation cannot participate in extracurricular activities unless the school system provides transportation. OSSE also plans to address this issue in their amended policy and we look forward to working with them in the coming year to make this change.
- Provide transportation for partial-day inclusion programs. This would allow a student to attend a nonpublic school for part of the day and then be bused to his local public school for the remainder of the day. For many students, this is the best and most realistic way to prepare them to return to a public school. We anticipate that this proposed policy change would pay for itself in reduced nonpublic tuition costs by allowing more students to successfully transition back to the public schools. OSSE has expressed interest in addressing this issue and we encourage the agency to include this change in their upcoming amended policies.
- Limit ride times to 60 minutes for students who live and attend school in DC, with a waiver for extenuating circumstances. While the *Petties* order was in

effect, ride times for students who lived and attended school in DC were limited to 60 minutes each way. After *Petties* closed, OSSE extended the ride time limit to 75 minutes each way for students traveling to programs in the District of Columbia.²⁹ We have heard from some parents that their children are on the bus for over an hour each way even though they only live a few miles from school. In each month during the 2013 – 2014 school year, approximately 15% to 20% of students receiving transportation services had a ride time of over 60 minutes.³⁰ We understand that in a few cases, children’s homes and schools may be so far apart that there is no way for them to have a shorter ride time, but we are concerned that children who live near their schools may also have long ride times. These long rides are harmful to students – they keep them from homework, sports, and time with their families. Accordingly, we recommend that OSSE return to the previous limit. In the few cases where distance and traffic make it truly impossible to cross town in 60 minutes, OSSE should be allowed to waive the limit with appropriate documentation provided to the IEP team.

We truly appreciate OSSE’s willingness to work with the community and families on these important issues and we look forward to continuing working with the Division of Student Transportation in the coming year.

Transition Services

I have serious concerns regarding the current ability of all DC schools to prepare students with disabilities for adulthood, but I also see significant opportunities for DC to improve in this area in the coming year. Under federal special education law, schools are obligated to provide special education students between 16 and 22 with “transition services.”³¹ The new special education laws passed by the Council will require

transition planning to begin at age 14 starting in 2016.³² These transition services can include a wide range of activities to prepare students for independent living, employment, and further education.

This is not to say that the District has made no progress regarding secondary transition. OSSE has brought a focus to secondary transition by providing professional development training to DCPS, charter schools, and special education transition specialists on transition services.³³ During the last school year, OSSE also focused on finding ways to engage students throughout their IEP process and to encourage students to take an active role in planning for their future.³⁴ One result of these efforts is the new film, “The Best Me I Can Be: Implementing Student-led IEPs” in the District of Columbia.³⁵ This film shares ways that families, students, and schools can be actively involved in the special education planning process. OSSE also developed a new Secondary Transition resource website and a Student-led IEP Online Toolkit.³⁶ DCPS’s partnerships with Project Search and Marriott Bridges to provide employment training to students with disabilities have been very successful.³⁷ However, these programs only serve a very small percentage of the students who could benefit from such programs.

At a time when the city is wisely focusing on developing career-readiness for young adults through RAISE DC, it is essential that OSSE guide DCPS and the charter schools in expanding their vocational programs to meet the needs of the several thousand high school special education students.³⁸ Offering more programs that engage students in learning job skills will lead to fewer students dropping out, as we find that many of the teenagers we work with are very motivated by learning vocational skills even if they may have given up years ago on learning to read or do math. Integrating vocational programs into the curriculum will also improve students’ academic skills, as we also find that many of our clients make more progress in academics when those

academics are tied to practical skills. As a first step, we urge OSSE to assess the vocational and life skills training needs of DC students. OSSE should also direct the LEA to assess the effectiveness of any vocational programs they operate or partner with. Based on the information from these assessments, OSSE should develop and implement a plan to expand the vocational and life skills training opportunities for special education students. This plan should be developed in coordination with the Rehabilitative Services Administration (RSA), the agency tasked with helping adults with disabilities obtain and maintain employment.

Oversight of Special Education at Charter Schools

Right now, both OSSE and the PCSB take on some responsibility for ensuring that charter schools comply with the IDEA, but this shared oversight model does not appear to be successful. In practice, we understand that PCSB does not proactively monitor charter schools' compliance with the IDEA. Instead, PCSB largely relies on data provided by OSSE to learn about schools that may be out of compliance. The triggers for PCSB's audit policy are based on OSSE reports and other demographic data that schools submit routinely.

OSSE does regularly monitor and evaluate LEA compliance with the indicators required as part of the State's IDEA Performance Plan.³⁹ The results of the monitoring are reported to the federal Office of Special Education Programs (OSEP). That monitoring includes records reviews and interviews. In most circumstances, Local Education Agencies are informed of the date of the visit in advance and choose which parents and students OSSE staff will interview.⁴⁰

I recommend that the two agencies work together to catalog all of the information that they collect about special education in charter schools and what

enforcement mechanisms they have available. Once they have amassed that information, they should develop a taskforce to make recommendations for improving data sharing and oversight. The recommendations should be made public by the start of the next fiscal year.

We have several recommendations for actions that OSSE should take to improve oversight of the charter schools with regard to special education:

- OSSE should revise its policy to allow the agency to conduct unannounced observations in more circumstances;
- The results of OSSE's observations and data reviews should be shared with the public in an accessible way that allows parents to use the information to inform their school choices; and
- OSSE should increase its use of the IDEA option of directing LEAs to spend their IDEA funding to remediate specific deficiencies identified by OSSE.

Truancy Prevention and Discipline Issues

Keeping students in school is crucial to their academic success. OSSE should increase truancy prevention efforts and decrease the use of out of school suspensions.

Truancy Prevention

Truancy is a significant problem in the District of Columbia. Ensuring that all children are attending school every day is extremely important as a foundation for their future success. Students miss school for many reasons including personal factors (unmet physical or mental health needs; poor academic performance, sometimes due to special education needs, and a resulting lack of self-esteem; alcohol and drug use), home and community factors (family health or financial concerns that pressure the student to care for family members or work; lack of parental guidance or supervision;

domestic violence; poverty; pressures arising from teen pregnancy or parenting; parental alcoholism or drug abuse; lack of transportation; safety issues such as violence near home or between home and school), and school factors (lack of effective and consistently applied attendance policies; push-out policies such as suspension as a punishment for truancy; teacher characteristics such as lack of respect for students and neglect of diverse student needs; unwelcoming atmosphere; unsafe environment).⁴¹

Last year, the Council passed the *Attendance Accountability Amendment Act*, which lowered the threshold for court referral from 25 absences to 15 absences for students aged 14 and up.⁴² Students aged 5 to 13 must be referred to the Child and Family Services Agency (CFSA) upon ten days of unexcused absences. While we are glad that this issue is being addressed with such seriousness by so many in our government, we also want to be sure that the laws and policies address the root causes of truancy, not just punish those who are truant. OSSE should encourage schools to do more to intervene early before children become chronically absent and drop out of school. The student, parents, teachers and other staff who work with the child on a regular basis should be the heart of any truancy reduction effort, and current regulations require all schools to have a robust intervention system.⁴³

Reducing Suspension and Expulsion

Out of school suspensions and expulsions have an extremely negative impact on the student being disciplined, as well as the school community as a whole. There were 10,000 students of all ages suspended during the 2012 - 2013 school year.⁴⁴ In school year 2012 - 2013, students under the care of DC's child welfare system were more than two times more likely to be disciplined than other students, students who are low-income were also more likely to be disciplined than their wealthier peers, and students who have disabilities and receive special education services also experienced higher

rates of discipline.⁴⁵ One of the most upsetting statistics revealed by the “Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools” report is that African-American students in the District are almost 6 times as likely to be suspended or expelled as white students.⁴⁶ School push-out is not just a school discipline issue; it is very much an issue of racial justice.

We strongly encourage all DC public schools to stop using suspension and expulsion as a form of discipline. Along with banning suspensions and expulsions, OSSE should ensure schools have the training, support and funding to implement alternative programs that promote a positive school climate and appropriate disciplinary approaches.

Conclusion

Thank you again for the opportunity to testify. I welcome any questions.

1 Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to be the voice for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 8 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

² OSSE FY14 Oversight Questions, Q88; *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, available at: http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PAGES.pdf.

³ Id. Presentation by Yuliana Del Arroyo, OSSE, to the Mayor’s Advisory Committee on Child Abuse and Neglect (MACCAN), February 24, 2015

⁴ OSSE FY14 Oversight Questions, Q21.

⁵ OSSE FY14 Oversight Questions, Q29.

⁶ OSSE FY14 Oversight Questions, Q49.

⁷ In 2014, 20.4% of DCPS students in special education scored proficient or above in math and 17.6% scored proficient or above in reading. In the same year, 29.9% of PCSB students in special education scored proficient or above in math and 22.7% scored proficient or above in reading. See *Presentation of 2014 DC CAS Results* (2014), available at: http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2014%20DC%20CAS%20Result%20July%2031%202014...FINAL_.pdf.

⁸ OSSE FY14 Oversight Questions, Q40.

⁹ OSSE FY14 Oversight Questions, Q48.

¹⁰ See, Zero to Three Policy Center, “Improving Part C Early Intervention: Using What We Know about Infants and Toddlers with Disabilities to Reauthorize Part C of IDEA,” available at: <http://main.zerotothree.org/site/DocServer/PartC.pdf?docID=567>; “Early Childhood Experiences: Laying the Foundation for Health Across a Lifetime,” available at: <https://folio.iupui.edu/bitstream/handle/10244/613/commissionearlychildhood062008.pdf?sequence=2>.

¹¹ 34 C.F.R. § 303.321(c).

¹² “Proven Benefits of Early Childhood Interventions,” RAND Corporation Research Brief, available at: http://www.rand.org/pubs/research_briefs/RB9145/index1.html.

¹³ “Proven Benefits of Early Childhood Interventions,” RAND Corporation Research Brief, available at: http://www.rand.org/pubs/research_briefs/RB9145/index1.html.

¹⁴ See *Enhanced Special Education Services Act of 2014– DC Act 20-487*.

¹⁵ 5 DCMR § A-3108.3(b).

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- ¹⁵ OSSE FY14 Oversight Questions, Q23.
- ¹⁶ OSSE was serving 580 children as of January 14, 2014. OSSE FY 13 Performance Oversight Responses, Q53.
- ¹⁷ See *Enhanced Special Education Services Act of 2014– DC Act 20-487*.
- ¹⁸ 20 U.S.C. § 1412(a)(11)(A)(i).
- ¹⁹ 20 U.S.C. § 1412(a)(1)(A).
- ²⁰ OSSE FY 2014 Oversight Responses, Q1.
- ²¹ See *Special Education Quality Improvement Act of 2014, DC Act 20-0488*.
- ²² OSSE FY 2014 Oversight Responses, Q49.
- ²³ *Id.*
- ²⁴ *Id.*
- ²⁵ OSSE FY14 Oversight Questions, Q49.
- ²⁶ OSSE FY14 Oversight Questions, Q49 Attachment – Special Education Transportation Policy.
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ OSSE FY14 Oversight Questions, Q49.
- ³⁰ *Id.*
- ³¹ See 34 C.F.R. § 300.320(b)(2).
- ³² See *Enhanced Special Education Services Act of 2014– DC Act 20-487*.
- ³³ OSSE FY14 Oversight Questions, Q34.
- ³⁴ OSSE FY14 Oversight Questions, Q44.
- ³⁵ *Id.*
- ³⁶ *Id.*
- ³⁷ DCPS 2014 Performance Oversight Responses, Q73.
- ³⁸ *Raise DC* available at: <http://dme.dc.gov/page/raise-dc>.
- ³⁹ OSSE Special Education Monitoring & Compliance Manual (IDEA Part B), available at: <http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Monitoring%20Compliance%20Manual%20-%20IDEA%20Part%20B%209.2011.1.pdf>.
- ⁴⁰ *Id.*
- ⁴¹ *The National Center for School Engagement, Factors Contributing to Truancy*, available at: www.truancy-prevention.org; *Truancy Reduction: Keeping Students in School* (2001), available at: <https://www.ncjrs.gov/pdffiles1/ojdp/188947.pdf>.
- ⁴² See *Attendance Accountability Emergency Amendment Act of 2013, DC Act 20-0072*.
- ⁴³ 5 D.C.M.R A-2100 et seq.
- ⁴⁴ *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, available at: http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PAGES.pdf.
- ⁴⁵ *Id.*
- ⁴⁶ *Id.*